761551N25A - SH-AD-32A (PSTD-1/93)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: April 8, 1994

OFFICE CORRESPONDENCE

FROM: GERALD W. MINNIS, COMMANDER
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

TO: LARRY L. WALDIE, CAPTAIN
WALNUT REGIONAL STATION

SUBJECT: **FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS -- USE OF FORCE, SUSPECT DECEASED, JANUARY 6, 1994 PSTD #006847**

The purpose of this memorandum is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on January 6, 1994.

The committee met on April 7, 1994, and consisted of myself and Commanders Painter (FOR I) and Stonich (FOR III). We found that the use of force by Sergeant Bradley F. Wright #[redacted] and Deputies [redacted] #[redacted] [redacted] #[redacted] Donnie Johnson #[redacted] #[redacted] and Michael D. Papp #[redacted] was reasonable and justified. The committee recommends that all involved personnel be commended for their restraint and for their measured escalation of force against the suspect. The committee also recommends that you debrief them regarding suspect control using multiple-deputy takedown techniques. Additionally, the committee recommends that you debrief Sergeant Wright regarding his role as a supervisor when directing personnel in highly charged, dangerous situation such as this.

Accompanying this memo is the original PSTD Response Team package which contains the IAB and Training Bureau reports. Please evaluate the included material and complete and sign the enclosed form documenting your recommendations and actions. The package should be forwarded to your division chief within 30 days.

GWM:jph

TABLE OF CONTENTS

COUNTY [illegible] LOS ANGELES - SHERIFF'S DE[illegible]RTMENT
INCIDENT DATA

WHAT INITIATED INCIDENT

Call	X	Observation		Search Warrant		Arrest Warrant	

LOCATION OF OCCURRENCE

[redacted] Millburgh Road,
Azusa, 91702 (County Area)

TYPE OF LOCATION

Residence	X	Business		Industrial		Parking Lot	
Street		Backyard		Freeway		Rural	
Jail Cell		Vehicle		Booking Cell			
Other							

CONDITIONS

DATE	TIME	DAY
01/06/94	1638 hours	Thursday

LIGHTING

Dark Interior of house, only source of lighting was deputies flashlights.

WEATHER

Clear

CONTRIBUTING FACTORS

None

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME						
WRIGHT, Bradley F.						

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Sergeant	[redacted]	Walnut Station/Field Operations Region III

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
Male	White	5'09	160	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
On-Duty	07/10/72

DEPUTY INJURED? [X] YES [ ] NO

DESCRIPTION OF INJURIES

Human bite to left shoulder; Human bite to right ear (two sutures); Swelling and large hematoma to center of forehead; Swelling and abrasions to nose and cheeks; Swelling and small cut on the right side of lower lip; Swelling and abrasions to both hands and bruising to left front thigh.

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
San Dimas Community Hospital/ Doctor Hosta	Yes, on file with Homicide Bureau

WEAPON USED

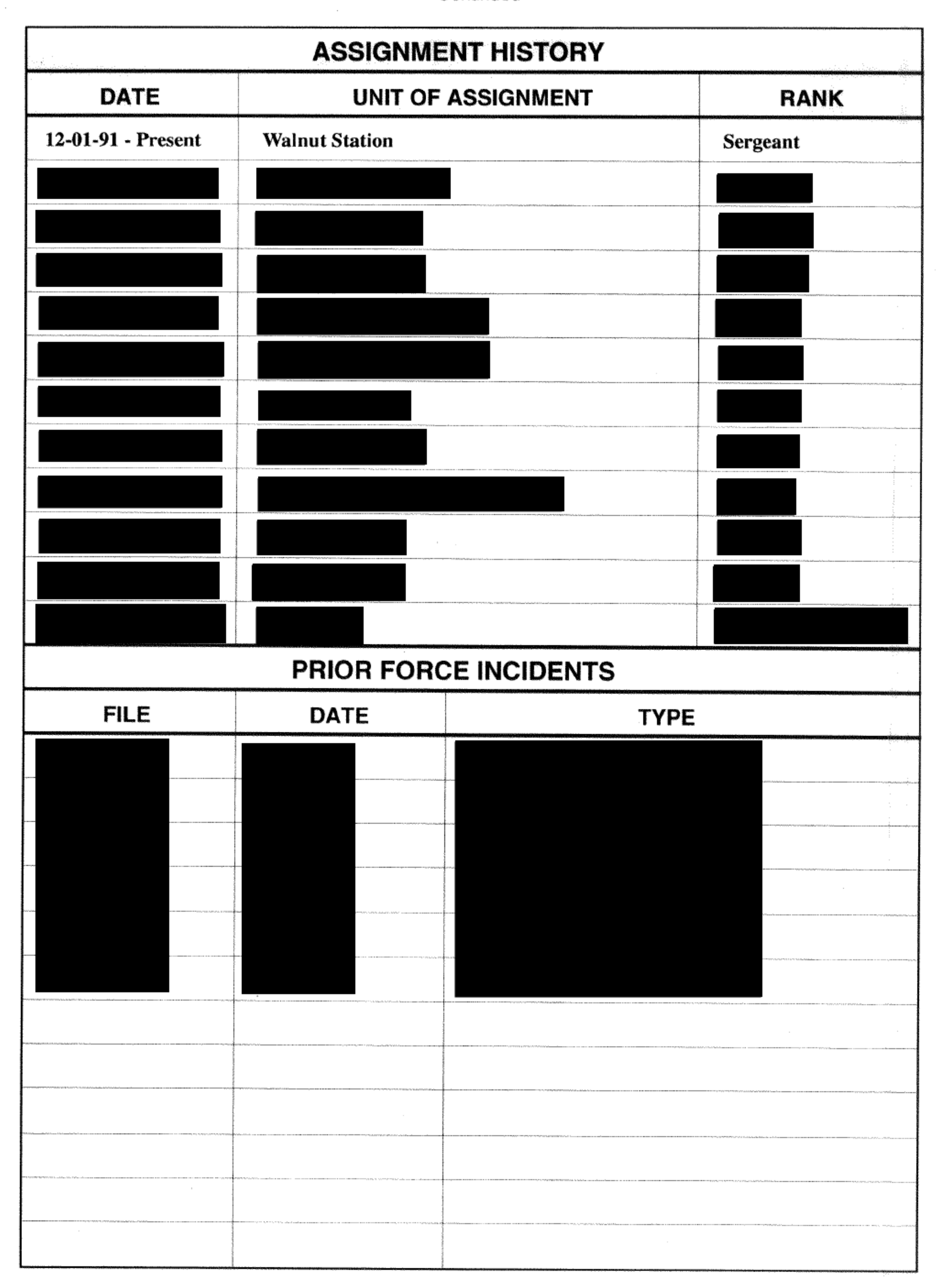
TYPE	AUTHORIZED
Taser	Yes

TRAINING ON WEAPONS

[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	Not Applicable



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
12-01-91 - Present	Walnut Station	Sergeant
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
[redacted]	[redacted]	[redacted]

LOS ANGE S COUNTY - SHERIFF'S DE RTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME				
[redacted]				

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Deputy Sheriff	[redacted]	Walnut Station/Field Operations Region III

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
Male	White	5'10"	175	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
On Duty	[redacted]

DEPUTY INJURED? [X] YES [ ] NO

DESCRIPTION OF INJURIES

Sprain to right hand; Both knees bruised.

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
San Dimas Community Hospital/Doctor Hosta	Yes, on file at Homicide Bureau

WEAPON USED

TYPE	AUTHORIZED
Hands	Yes

TRAINING ON WEAPONS

[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	Not Applicable

DEPUTY INVOLVED
Continued

ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
05-05-91 - Present	Walnut Station	Deputy Sheriff
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
[redacted]		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME
JOHNSON, Donnie R. Jr.

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Deputy Sheriff	[redacted]	**Walnut Station/Field Operations Region III**

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
Male	**Black**	**5'09"**	**172**	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
On Duty	**11-14-80**

DEPUTY INJURED? [X] YES [ ] NO

DESCRIPTION OF INJURIES
Muscle strain of the left shoulder and neck.

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
San Dimas Community Hospital/Doctor Hosta	**Yes, on file at Homicide Bureau**

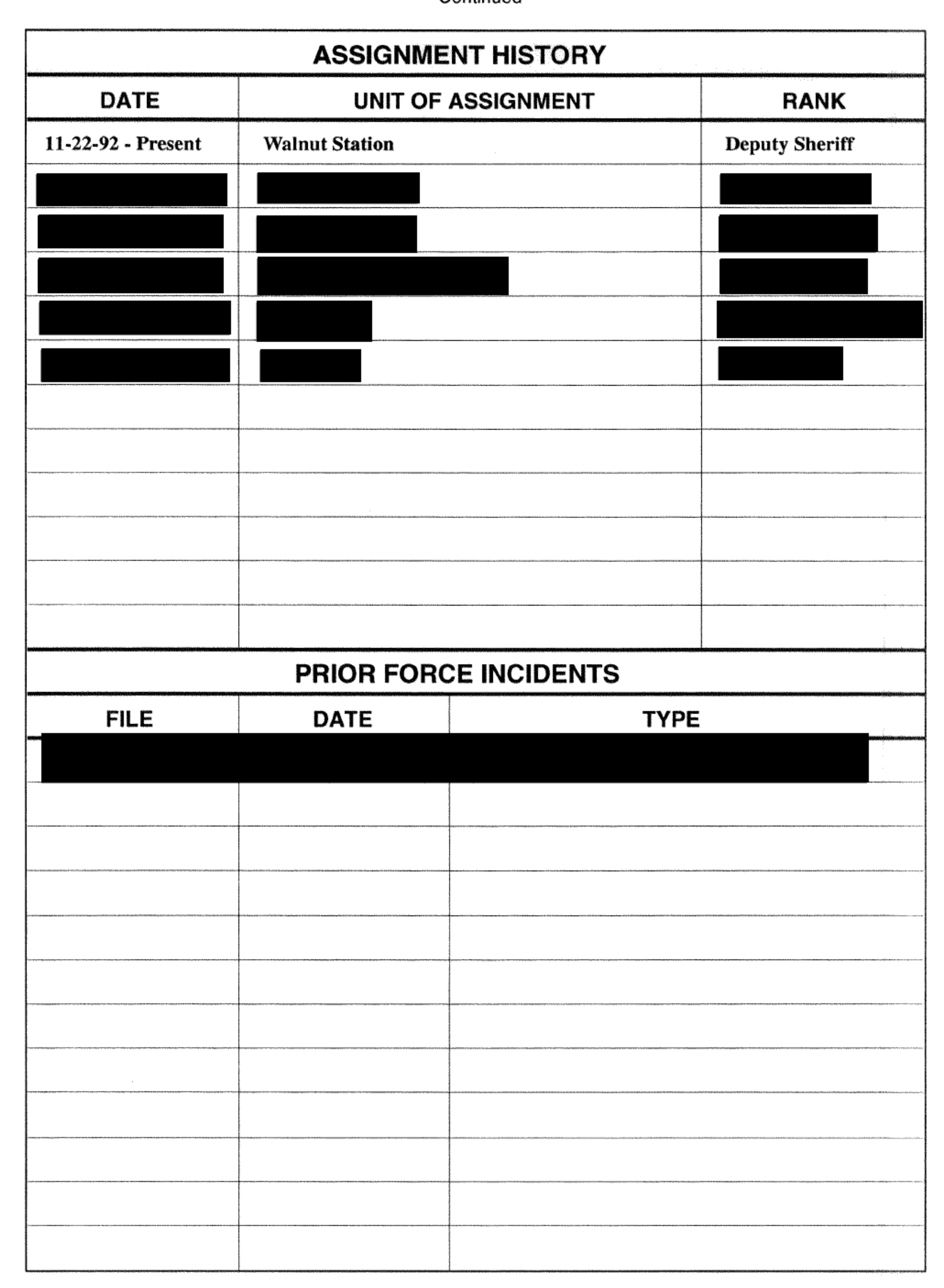
WEAPON USED

TYPE	AUTHORIZED
O.C. Spray **Sap**	**Yes**

TRAINING ON WEAPONS
[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	**No**	**Not Applicable**



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
11-22-92 - Present	Walnut Station	Deputy Sheriff
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
[redacted]		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME **PAPP, Michael D.**						
RANK **Deputy Sheriff**		EMPLOYEE NO. [redacted]	UNIT AND DIVISION / REGION OF ASSIGNMENT **Walnut Station/Field Operations Region III**			
SEX **Male**	RACE **White**	HEIGHT **5'11"**	WEIGHT **180**	DATE OF BIRTH [redacted]	AGE [redacted]	
DUTY STATUS **On Duty**					HIRE DATE **02-06-69**	

DEPUTY INJURED? ☐ YES ☒ NO

DESCRIPTION OF INJURIES

Not Applicable

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
Not Applicable	**Not Applicable**

WEAPON USED

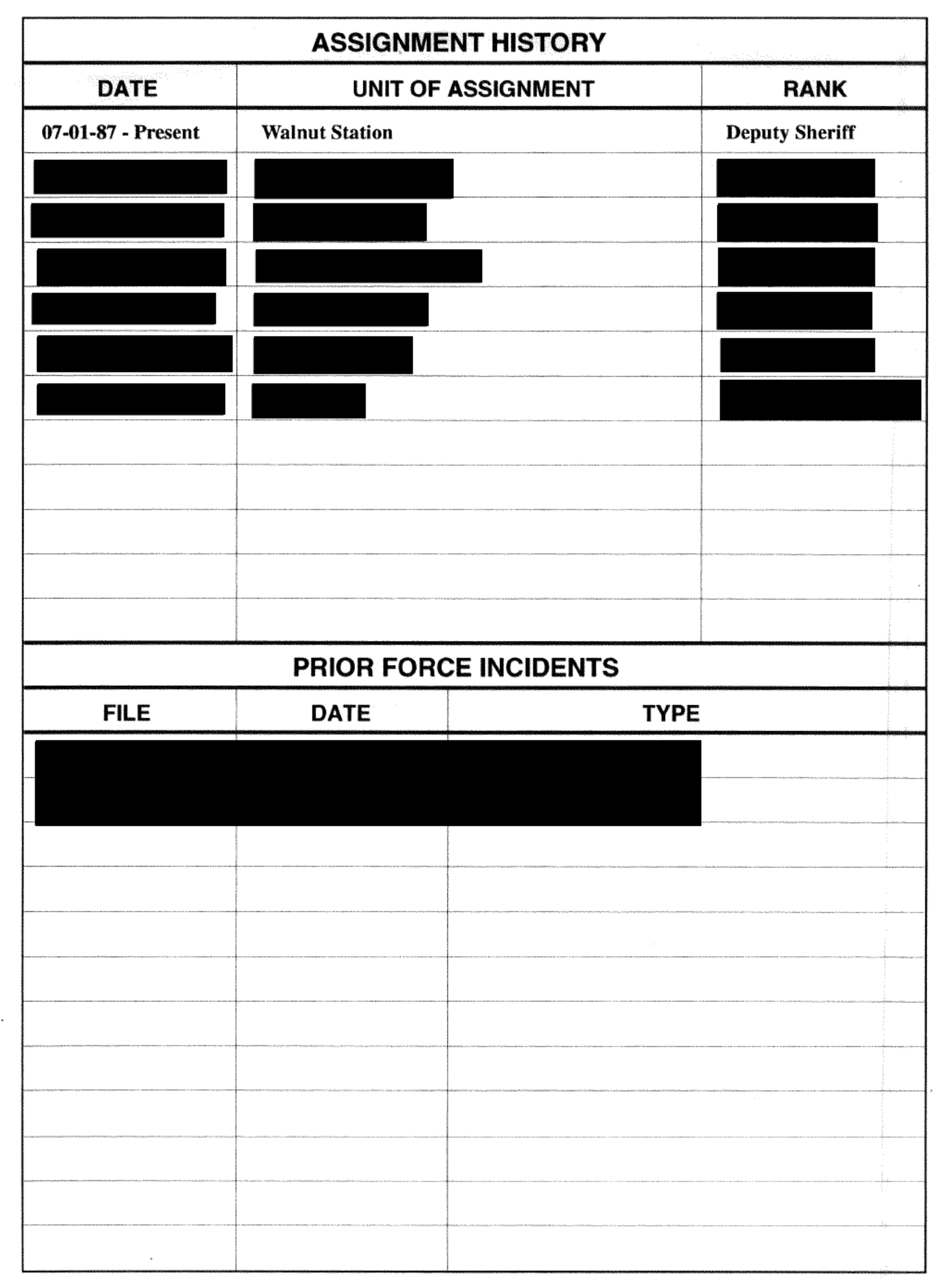
TYPE	AUTHORIZED
Foot	**Yes**

TRAINING ON WEAPONS

[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	**No**	**Not Applicable**



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
07-01-87 - Present	Walnut Station	Deputy Sheriff
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
[redacted]		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME					
[redacted]					

RANK	EMPLOYEE NO.	UNIT AND DIVISION / REGION OF ASSIGNMENT
Deputy Sheriff	[redacted]	Walnut Station/Field Operations Region III

SEX	RACE	HEIGHT	WEIGHT	DATE OF BIRTH	AGE
Male	White	5'08"	163	[redacted]	[redacted]

DUTY STATUS	HIRE DATE
On Duty	[redacted]

DEPUTY INJURED? [X] YES [ ] NO

DESCRIPTION OF INJURIES

Strain to lower back; Trauma to right hand

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
San Dimas Community Hospital/Doctor Hosta	Yes, on file at Homicide Bureau

WEAPON USED

TYPE	AUTHORIZED
Hands	Yes

TRAINING ON WEAPONS

[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	No	Not Applicable

ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
07-01-87 - Present	Walnut Station	Deputy Sheriff
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
None		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

DEPUTY INVOLVED

EMPLOYEE'S NAME [redacted]						
RANK **Deputy Sheriff**		EMPLOYEE NO. **195935**	UNIT AND DIVISION / REGION OF ASSIGNMENT **Walnut Station/Field Operations Region III**			
SEX **Male**	RACE **White**	HEIGHT **5'10"**	WEIGHT **175**	DATE OF BIRTH [redacted]	AGE [redacted]	
DUTY STATUS **On Duty**				HIRE DATE [redacted]		

DEPUTY INJURED? ☒ YES ☐ NO

DESCRIPTION OF INJURIES

Strain to left shoulder

TREATING HOSPITAL & PHYSICIAN	PHOTO OF INJURIES
San Dimas Community Hospital/Doctor Hosta	**Yes, on file at Homicide Bureau**

WEAPON USED

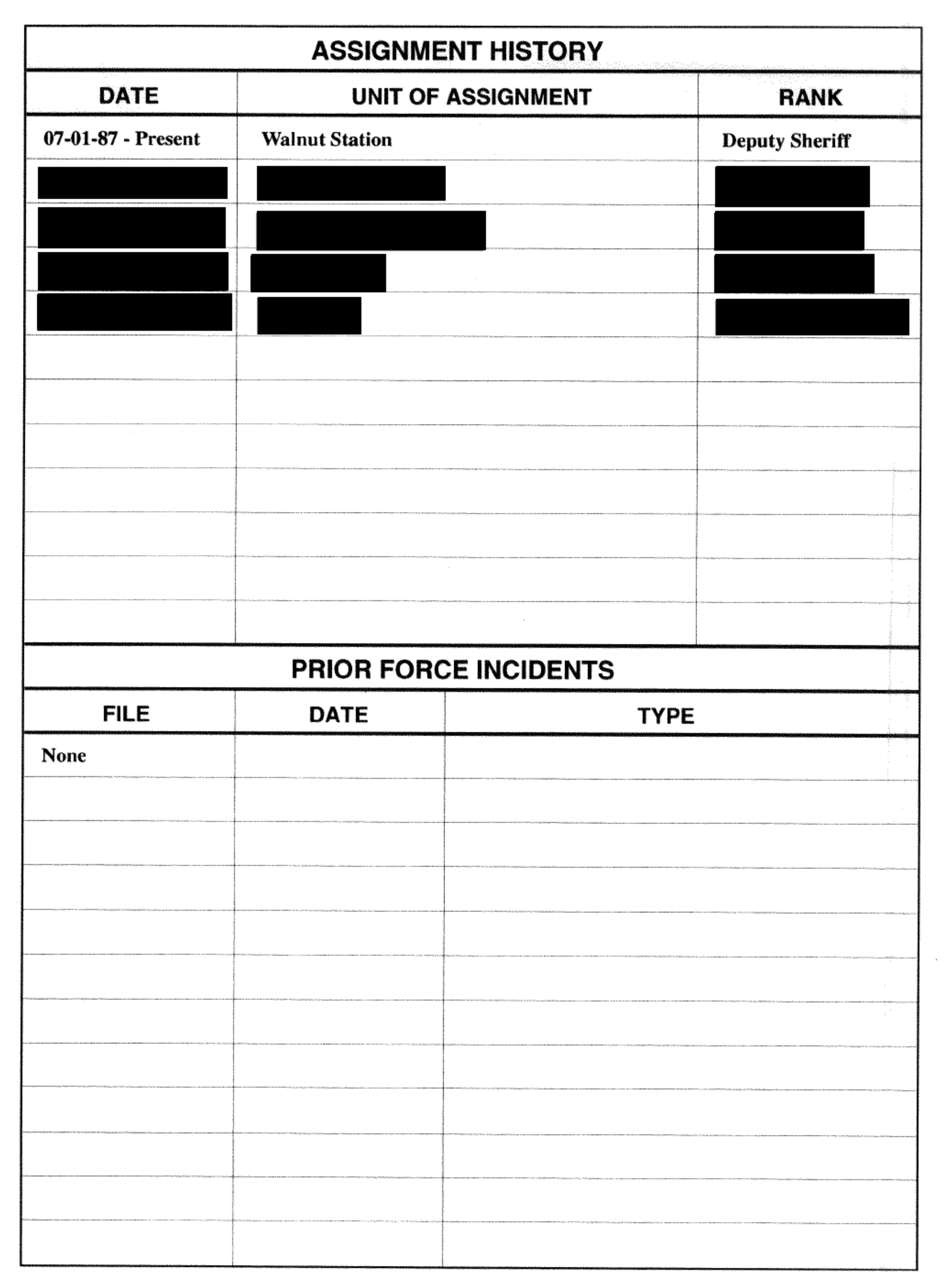
TYPE	AUTHORIZED
O.C. Spray **Sap**	**Yes**

TRAINING ON WEAPONS

[redacted]

DEPUTY'S TOXICOLOGY

UNDER THE INFLUENCE	TEST FOR CAUSE ORDERED	ORDERED BY
No	**No**	**Not Applicable**



ASSIGNMENT HISTORY

DATE	UNIT OF ASSIGNMENT	RANK
07-01-87 - Present	Walnut Station	Deputy Sheriff
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

PRIOR FORCE INCIDENTS

FILE	DATE	TYPE
None		

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

SUSPECT/SUBJECT

LAST NAME	FIRST NAME	M/I
Gizowski	Daniel	Scott

ADDRESS

[redacted]

SEX:	RACE	HEIGHT	WEIGHT	D.O.B.	AGE	DECEASED
Male	White	5'09"	140	10-10-68	25	Yes

BOOKING NUMBER	JAIL HOUSING LOCATION
N/A	N/A

DESCRIPTION OF INJURIES (INCLUDES LOCATION/TYPE OR WOUND AND NOTATION OF VISIBLE INJURIES OR COMPLAINTS OF INJURIES)

Bruises on face, arms and hands

HOSPITAL AND TREATING PHYSICIAN

Glendora Hospital

ARE INJURIES CONSISTENT WITH EMPLOYEE'S EXPLANATION OF EVENTS? Yes

ARE INJURIES CONSISTENT WITH SUSPECT'S EXPLANATION OF EVENTS? N/A

PHOTOS OF SUBJECT/SUSPECT Yes

SUSPECT/SUBJECT TOXICOLOGY

UNDER THE INFLUENCE

Yes

TYPE OF SUBSTANCE	LAB TEST CONDUCTED
Methamphetamines	Yes

MEDICAL RELEASE OBTAINED FROM SUSPECT/SUBJECT

No

ARMED	TYPE OF WEAPON
No	N/A

CRIMINAL HISTORY (ATTACH COPY OF RAPS)

See Attached

SUSPECT/SUBJECT STATEMENT OF INCIDENT

None, Suspect Deceased

LOS ANGELES COUNTY - SHERIFF'S DEPARTMENT

MEDICAL PERSONNEL STATEMENTS

ATTENDING PHYSICIAN

NAME **Dr. Magallon**	
BUSINESS ADDRESS **150 West Alosta, Glendora 91740**	
BUSINESS PHONE NUMBER (818) 335-0231	MEDICAL FACILITY **Glendora Community Hospital**

STATEMENT OF PHYSICIAN

See Incident Summary

ATTENDING NURSE

NAME	
BUSINESS ADDRESS	
BUSINESS PHONE NUMBER	MEDICAL FACILITY

STATEMENT OF NURSE



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATON

GIL GARCETTI • District Attorney
SANDRA L. BUTTITTA • Chief Deputy District Attorney
FRANK E. SUNDSTEDT • Assistant District Attorney

JANICE L. CARLSON • Chief
ROBERT L. HILLEARY • Assistant Chief

December 21, 1994

Daniel L. Burt, Captain
Los Angeles Sheriff's Department Headquarters
Homicide Bureau
4700 Ramona Boulevard
Monterey Park, California 91754-2169

Re: Special Investigations Division Number: 100-7700/94-0004
L.A.S.D. File Number: 094-00327-2967-058

Dear Captain Burt,

The Special Investigations Division of the Los Angeles County District Attorney's Office has completed its investigation of the January 6, 1994 in custody death of Daniel Scott Gizowski. This inquiry consisted of a thorough review of all reports prepared by Los Angeles County Sheriff's investigators, a tour of the scene by Deputy District Attorney Christopher Darden and District Attorney Senior Investigator [redacted] and an interview with civilian witness [redacted] conducted by Investigator [redacted] The foregoing investigation disclosed that Mr. Gizowski died as a result of methamphetamine intoxication and asphyxia.

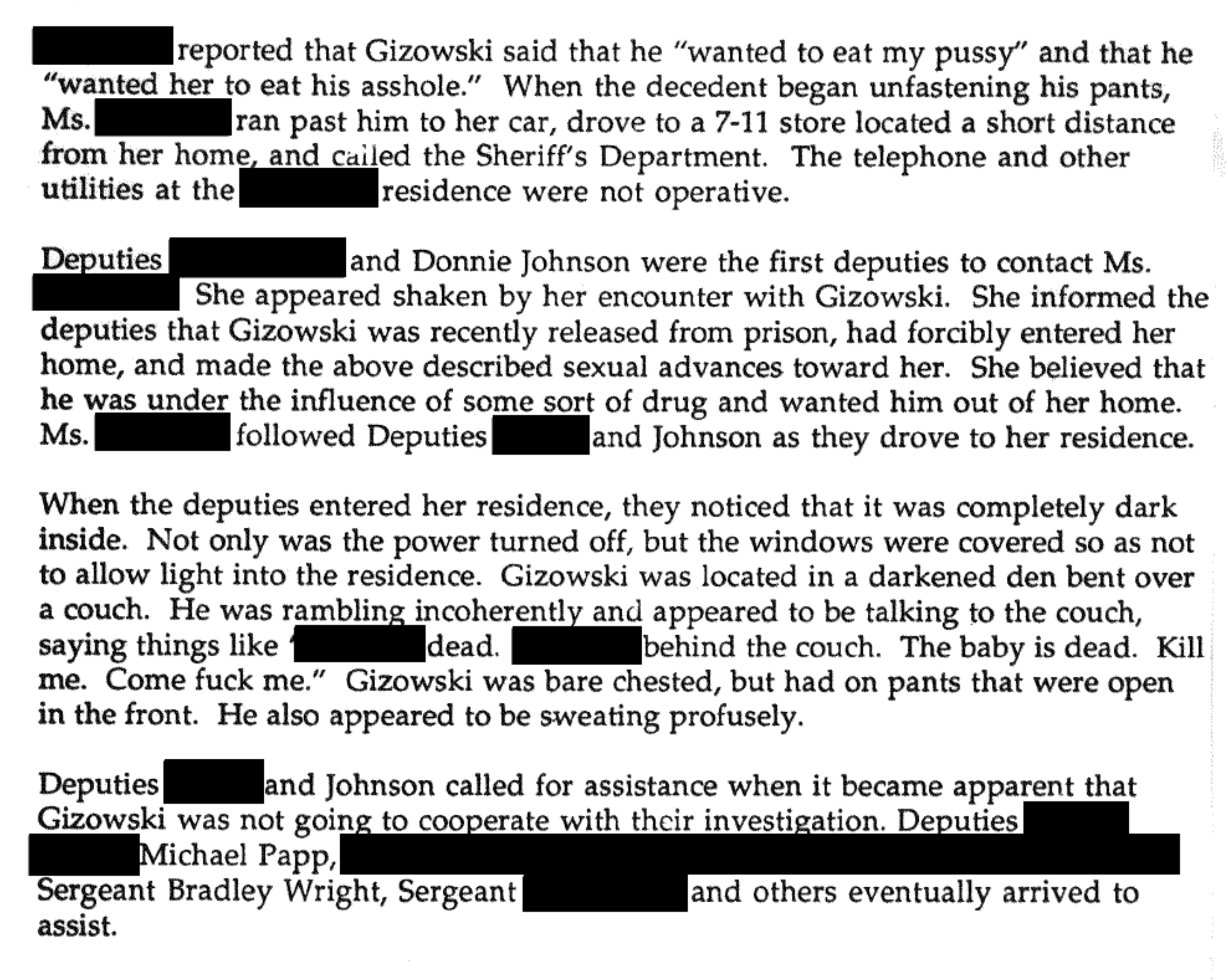
FACTUAL ANALYSIS

The following factual analysis is based on reports prepared by the Los Angeles County Sheriff's Department and received by this office on June 2, 1994. All of the deputies involved in the arrest of Daniel Gizowski gave non-compelled statements to Sheriff's investigators.

Daniel Gizowski was [redacted] On January 6, 1994, at approximately 4:30 p.m., Ms. [redacted] was asleep in her residence at [redacted] She was awakened by a loud noise and was subsequently confronted in her bedroom by the decedent. Ms. [redacted] knew Gizowski to be the [redacted]

Ms. [redacted] stated that she had "the impression he was on something." Ms.

Criminal Courts Bldg.
210 West Temple Street
Suite 17-1102
Los Angeles, CA 90012
(213) 974-3601



[redacted] reported that Gizowski said that he "wanted to eat my pussy" and that he "wanted her to eat his asshole." When the decedent began unfastening his pants, Ms. [redacted] ran past him to her car, drove to a 7-11 store located a short distance from her home, and called the Sheriff's Department. The telephone and other utilities at the [redacted] residence were not operative.

Deputies [redacted] and Donnie Johnson were the first deputies to contact Ms. [redacted] She appeared shaken by her encounter with Gizowski. She informed the deputies that Gizowski was recently released from prison, had forcibly entered her home, and made the above described sexual advances toward her. She believed that he was under the influence of some sort of drug and wanted him out of her home. Ms. [redacted] followed Deputies [redacted] and Johnson as they drove to her residence.

When the deputies entered her residence, they noticed that it was completely dark inside. Not only was the power turned off, but the windows were covered so as not to allow light into the residence. Gizowski was located in a darkened den bent over a couch. He was rambling incoherently and appeared to be talking to the couch, saying things like "[redacted] dead. [redacted] behind the couch. The baby is dead. Kill me. Come fuck me." Gizowski was bare chested, but had on pants that were open in the front. He also appeared to be sweating profusely.

Deputies [redacted] and Johnson called for assistance when it became apparent that Gizowski was not going to cooperate with their investigation. Deputies [redacted] Michael Papp, [redacted] Sergeant Bradley Wright, Sergeant [redacted] and others eventually arrived to assist.

Gizowski's behavior turned from bizarre to violent. He began throwing chairs, tables, lamps, books, glass objects and "anything he could get his hands on" at the deputies. Two deputies were injured by objects thrown by Gizowski. Pepper spray was sprayed in Gizowski's face and upper body with no apparent subduing effect. Instead, he became more aggressive and belligerent toward the deputies. Mace was also sprayed in his face, but appeared to have little effect. The deputies present were the only individuals affected by the use of the pepper spray and mace. They had difficulty breathing and their eyes were watering. They could stay in the residence only for short periods of time because of the irritation to their eyes and lungs, and had to leave the residence to get fresh air.

Sergeant Wright shot the decedent two separate times with a taser. Neither shot appeared to disable Gizowski, but rather seemed to make him more challenging and

threatening to the deputies. Deputies attempted to get a K-9 and an Arwin Rifle,[1] but neither were available. The decision was made to 'swarm' Gizowski with the thought being to control him with the body weight of several deputies. Sergeant Wright directed the deputies to remove their weapons and nightsticks. Sergeant Wright then approached Gizowski and attempted to handcuff him. Gizowski suddenly grabbed Sergeant Wright and forcefully threw him face first to the floor with such power that two deputies thought he had killed the sergeant. Gizowski got on top of Sergeant Wright and began biting him on the left shoulder and right ear, while at the same time hitting him about the head, face and upper body. Other deputies rushed to Sergeant Wright's assistance. After a violent struggle, Gizowski's hands were eventually handcuffed behind his back. Gizowski continued to kick and struggle. The air was thick with pepper spray and mace, and for the safety of Gizowski and the deputies involved, Gizowski was taken outside to a patio in the back yard.

Gizowski continued to struggle and kick at the deputies. In order to protect themselves and Gizowski, the decision was made to place Gizowski in a 'hobble restraint.'[2]

The effort to attach the hobble was met with continued resistance and violence. It took at least four deputies to control Gizowski and at the same time affix the hobble to his legs. At one point while Gizowski was on his stomach, one deputy was straddling Gizowski trying to pull his legs back toward his handcuffed hands. Two other deputies were at Gizowski's feet pushing his legs toward his hands. Despite the strength being employed against him, Gizowski was able to straighten his legs and throw the three deputies from him.

The struggle ended when the deputies were finally able to attach the hobble. Gizowski was immediately placed on his side. Within a few seconds of being placed on his side, Gizowski stopped breathing. The hobble was immediately removed and Gizowski was placed on his back. Cardiopulmonary resuscitation (CPR) was immediately begun by the very deputies with whom Gizowski had been fighting just moments earlier. Paramedics responded, continued CPR, and

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1. An Arwin Rifle is a weapon that shoots rubber bullets. It is designed to stun the person shot, and is non-lethal in nature.

2. A 'hobble' is a device that attaches around a person's lower legs. His legs are then bent backwards and the hobble is connected to the handcuffs which are attached to the persons wrists. The effect is, in essence, to 'hogtie' the person hobbled. Deputies are trained that when a hobble restraint is employed, the person hobbled must immediately be placed on his side. This is done to facilitate breathing.

administered first aid to the deputies injured in the struggle with Gizowski.

Gizowski was transported to Glendora Community Hospital where he was pronounced dead at 6:25 p.m. A urine drug screen performed at Glendora Community Hospital was positive for the presence of amphetamines and methamphetamines. A toxicological analysis of Gizowski's blood by the Los Angeles County Department of Coroner confirmed the presence of amphetamine and methamphetamine.

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff Investigators Ray Verdugo and Pam Schrick. He stated that he and his partner, Deputy Donnie Johnson were directed to meet [redacted] at the 7-11 located at Gladstone and Azusa. After receiving the information set forth above, they proceeded to her [redacted] in the unincorporated area of Azusa. Once inside the darkened residence, they heard Gizowski "rambling, talking nonsense and making sounds like an animal." Gizowski was "petting the couch" and "wouldn't respond to anything." Gizowski was mumbling statements like "What do you want; do you want me to suck your dick or are you here to fuck me in my ass? Are you just gonna kill me? Go ahead and kill me. Come get me. Just kill me. Let's go for it." Deputy [redacted] told investigators "It was obvious a combat situation was going to come out of it."

Deputy [redacted] described how his partner emptied a canister of pepper spray directly in Gizowski's face and upper body and that it "had no effect whatsoever" other than to "tick him off." Gizowski responded by saying that the spray "ain't gonna do shit to me, come and get me you'll have to kill me." Gizowski began throwing large and small objects at the deputies. A chair thrown by Gizowski hit Deputy [redacted] just above the knees. Deputy [redacted] also emptied his pepper spray on Gizowski, but this had no effect either. [redacted] described how Sergeant Wright shot Gizowski two separate times with a taser, but with little effect.

Deputy [redacted] told investigators that the decision to 'swarm' Gizowski was made and that Sergeant Wright, after removing his handgun and baton, was the first to approach the decedent. Gizowski, who appeared to be in a kneeling, motionless position, suddenly grabbed Sergeant Wright and "took him straight down to the ground and I heard a pop, and I saw Brad's forehead hit something, and I thought oh my God, he's gonna kill him, he's got him." Fearing for the safety of Sergeant Wright, Deputy [redacted] attempted to separate Gizowski from Sergeant Wright. He described how he began hitting Gizowski "on his lap and muscles". "I gave him everything I got. I wasn't doing any good." Gizowski was slippery from the pepper

spray and mace, and grabbing an arm to pull him away from Sergeant Wright was difficult. Breathing was difficult because the air was heavy with pepper spray and mace. [redacted] finally had to leave the room to get some fresh air.

After Gizowski was handcuffed he was "still kicking, going ballistic." Gizowski was taken to the backyard for his well being as well as the safety of the deputies present. [redacted] stated that Gizowski "kicked and kicked and kicked all the way out." The hobble restraint was applied, but [redacted] was not sure by whom. According to [redacted] Gizowski was only restrained for "20 seconds" before the hobble was removed and CPR was started. [redacted] stated that his "back was tweaked pretty good" from the struggle with Gizowski.

DEPUTY DONNIE JOHNSON

Deputy Donnie Johnson was interviewed by Investigators Verdugo and Schrick. Johnson believed that Gizowski was under the influence of methamphetamines and that "this guy looks like he's on the edge, so we're coming in really, really low key." When Gizowski charged toward Deputy Johnson, Johnson sprayed him with pepper spray. Johnson described how neither additional pepper spray, mace, nor the taser gun effected Gizowski. Johnson said "We tried everything short of shooting, but nothing worked." Johnson then described Gizowski's attack on Sergeant Wright. "He slammed the sergeant down, took him down hard. It sounded like the sergeant's head hit the ground. The guy (Gizowski) was punching him and the sergeant's not moving. In my mind, I thought the sergeant was going to die."

In order to rescue Sergeant Wright, Deputy Johnson "hit this guy as hard as I could in the back, in the shoulder blades, with my sap, trying to get him to release his grip on the sergeant." After Gizowski was finally handcuffed, Johnson went to the backyard to get some fresh air. Gizowski was taken outside, still twisting, turning and kicking. Johnson and other deputies struggled to attach the hobble restraint, and placed Gizowski on his side. According to Deputy Johnson, Gizowski was still breathing when placed on his side. Within a few seconds, Gizowski stopped breathing. The hobble was immediately removed and Deputies [redacted] and Velasco started CPR.

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff Investigators Verdugo and Schrick. [redacted] described Gizowski as "by far the most insane person under any hallucigen (sic) that I have ever seen." Having worked the PCP ward at Central Jail, [redacted] said Gizowski "by far beats them all." [redacted] described the scene inside the location in

the same manner as Deputies [redacted] and Johnson. [redacted] deployed his pepper spray at Gizowski twice with no effect. Gizowski attacked Sergeant Wright with such force that, in [redacted] mind, he had killed him. [redacted] described how Wright's whole body went limp. Then Gizowski began biting the sergeant's right ear. [redacted] started hitting Gizowski on the back and ribs to get him off Sergeant Wright. Deputy [redacted] assisted in hobbling Gizowski, and shortly thereafter became aware that Gizowski was in need of medical assistance. Deputy [redacted] was treated for injuries to his right hand and wrist.

SERGEANT BRADLEY WRIGHT

Sergeant Bradley Wright was interviewed by Sheriff Investigators Verdugo and Schrick. He described the violence exhibited toward the deputies inside the [redacted] residence in the same manner as the above deputies. The only light inside the residence was from deputies flashlights. According to Sergeant Wright, the pepper spray only made Gizowski more hostile, and the taser only made him madder and increased his hostility toward the deputies. Gizowski simply pulled the taser darts from his body and continued his belligerent confrontation with the deputies.

In describing his struggle with Gizowski, Sergeant Wright told investigators "The next thing I realized, he was on top of me and punching me numerous times in and about my head, back, face and cheek area with a great deal of intensity. I was on the ground. My arms were at my side, where I couldn't utilize them, and the weight of his body was holding me down. There was very little of anything I can do at that particular moment in time. I was being struck and the body was holding me down. I was being bit on my left shoulder area and the suspect moved from my shoulder to my right ear and began biting on my right ear."

With the aid of fellow deputies, Wright placed a carotid restraint on Gizowski. He did not lose consciousness. Gizowski was finally handcuffed and taken outside and finally hobbled. Sergeant Wright saw that Gizowski was placed on his side, but noticed that he was having difficulty breathing. He ordered the removal of the hobble restraint and directed the administration of CPR. Sergeant Wright was ultimately taken to San Dimas Community Hospital where he was treated for a bite wound to his right ear which required two sutures, a bite wound to his left shoulder, and for swelling and a large hematoma to the center of his forehead. In addition, he suffered swelling and abrasions to his nose and cheeks, as well as swelling and a small cut on the right side of his lower lip.

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff's Investigators Verdugo and Schrick. When he arrived as the [redacted] residence, he saw deputies trying to take Gizowski from the den area. Because of the pepper spray and mace in the air, breathing was difficult. Gizowski was putting up a violent struggle by kicking, lunging, and pushing his body weight from side to side. Once in the back yard, Gizowski was placed face down in order to apply the hobble restraint. Deputy [redacted] straddled Gizowski, "almost sitting on his back." [redacted] was pulling Gizowski's legs back, trying to bend them at the knees so as to attach the hobble to the handcuffs. Two deputies were pushing Gizowski's legs in the direction that [redacted] was pulling, also trying to bend his legs back. At one point Gizowski straightened his legs and literally threw Deputy [redacted] onto the two deputies, which caused all three to momentarily lose their grip on Gizowski.

Deputy [redacted] was unsure who actually attached the hobble restraint to Gizowski. Once the restraint was attached, Gizowski was placed on his side. It was [redacted] job to monitor him. When Gizowski suddenly went "limp", [redacted] quickly untied the hobble and put him on his back. Deputies [redacted] and Velasco then began CPR. [redacted] denied ever striking Gizowski and stated that the hobble was applied to Gizowski so that "he doesn't hurt anybody else and so that he doesn't try to injury (sic) himself."

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff Investigators Verdugo and Schrick. Deputy [redacted] assisted in attaching the hobble restraint, and was the deputy who actually rolled Gizowski on his side. This was done immediately after the hobble restraint was attached.

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff Investigators Verdugo and Schrick. He described the scene inside the [redacted] residence in substantially the same manner as above. He emptied his pepper spray canister on Gizowski with little if any effect. Wright left the residence to get some fresh air, and when he returned, he heard Deputy [redacted] yell "he's gonna kill him." [redacted] could see that Wright was down on the ground and that deputies were trying to get Gizowski off of him. In an effort to rescue Sergeant Wright, Deputy [redacted] struck Gizowski two or three blows on the back with his sap. According to Deputy [redacted] five deputies carried Gizowski outside to the backyard patio. [redacted] did not participate in attaching the hobble restraint. [redacted] saw that Gizowski was placed on his right

side as soon as the restraint was applied and that Deputy [redacted] stood by and monitored him. Deputy [redacted] stated that Gizowski was still breathing when placed on his side. When Gizowski stopped breathing, [redacted] began CPR by administering chest compressions.

DEPUTY MICHAEL PAPP

Deputy Michael Papp was interviewed by Sheriff Investigators Verdugo and Schrick. He and his partner, Deputy [redacted] were the first assisting unit to arrive at the [redacted] residence. He described the struggle inside in much the same manner as described above. During the attempt to hobble Gizowski, he used his shod foot to hold Gizowski's head down "so that he couldn't look at the deputies and kick at them." He did this so that Gizowski "couldn't target them (the deputies)." Papp also stated that Gizowski was placed on his side immediately after being hobbled and that while on his side, he was monitored by Deputy [redacted]

DEPUTY [redacted]

Deputy [redacted] was interviewed by Sheriff Investigators Verdugo and Schrick. When he arrived at the [redacted] residence, Gizowski was being taken outside to the backyard patio. Gizowski continued to struggle and [redacted] helped apply the hobble restraint. He heard orders issued to put Gizowski on his side as soon as the hobble was attached and according to Prewett, "to the best of my recollection" he was still breathing at that time.

LOS ANGELES COUNTY DEPARTMENT OF THE CORONER

On January 9, 1994, Deputy Medical Examiner Saralee Funke, M.D. performed an autopsy on the body of Daniel Gizowski. Subcutaneous and subgaleal scalp hemorrhages were found, but were not a cause of death. No skull fractures were noted, nor were epidural, subdural or subarachnoid hemorrhages found. In addition, there were no fractures to the hyoid bone or the thyroid or cricoid cartilages. No internal or external neck injuries were seen, and there were no internal injuries or bone fractures. The body was bruised as one would expect following a violent struggle such as occured here, but none of the bruises contributed to the death.

Doctor Funke ascribed the cause of death to be "Methamphetamine Intoxication and Asphyxia." On page 18 of her report, she opined as follows:

> "Although decedent's body did not show anatomic lesions pathognomonic of asphyxia, the history supplied including bizarre behavior, struggle, swarming,

neck hold, rip-hobble and other forcible restraint procedures, and the anatomic findings including multiple deep back bruises and cuff marks on the wrists, in the context of this office's medical experience in such cases and the medical experience in such cases and the related scientific literature, make it highly probable in our judgment that these procedures in this case produced asphyxia which in combination with the intoxication, caused decedent's death."

Doctor Funke also acknowledged on page 18 that:

"[I]nformation supplied concerning decedent's behavior immediately prior to death was consistent with the syndrome of excited delirium caused by methamphetamine intake."

The undersigned spoke telephonically with Doctor Funke on November 9, 1994. She stated that the Coroner's Office was ascribing the cause of death to both asphyxia and methamphetamine intoxication. According to Dr. Funke, asyphxia occurs when the body fails to circulate oxygenated blood to the heart and brain. Doctor Funke could not ascribe the cause of death solely to either asphyxia or methamphetamine intoxication, nor could she quantify the two in terms of the primary cause of death. She also told me that she could not determine what caused the asphyxia in this case.

Doctor Funke stated that lesions typically found in cases of asphyxia were not found in this case. Petechial hemorrhage is one such type of lesion. Petechial hemorrhages are pinpoint areas of bleeding caused by rupture of the small blood vessels or capillaries in the skin. Petechial hemorrhaging is generally found in cases where the cause of death is determined to be asphyxiation. Dr. Ronald Kornblum, formerly the Chief Medical Examiner-Coroner for the County of Los Angeles, discussed the relationship of petechial hemorrhages and asphyxia in his treatise entitled "Medical Analysis of Police Choke Holds and General Neck Trauma (part 1)". At page 44, he states that petechial hemorrhages "are generally considered to be the hallmarks of asphyxia."

Doctor Funke did not consider the death of Mr. Gizowski to be due to 'positional asphyxia,' and did not discuss this concept in her report. The term 'positional asphyxia' refers to situations where an individual is hobble restrained and left in a prone position. Leaving a person in a prone position, as opposed to placing that person on their side, is thought to inhibit the supply of oxygen to the heart and brain, and thereby cause asphyxiation.

We also discussed the syndrome of 'excited delirium.' I described Gizowski's

conduct, including how he had removed his shirt, was sweating profusely, displayed significant behavioral swings, talked irrationally and exhibited super human strength. Coupled with the amount of methamphetamine found in Gizowski's antemortum blood, she felt that this was consistent with 'excited delirium', but could not single this out as the sole cause of death.

JOSEPH MUTO

Mr. Muto is the Chief Forensic Toxicologist for the Los Angeles County Department of Coroner. A toxicological analysis was completed on Gizowski's blood on February 1, 1994. 2.94 micrograms per millileter of methamphetamine was present in his blood. The undersigned spoke telephonically with Mr. Muto on November 8, 1994. Mr. Muto stated that the amount of methamphetamine in Gizowski's blood was in the "toxic range." He said that 5.0 micrograms per millileter or more is considered "potentially life threatening."

LEGAL ANALYSIS

The law in California is clear. "To constitute murder or manslaughter, in addition to the death of a human being, there must be an unlawful act or criminal negligence which was a cause of that death." CALJIC 8.55.

A peace officer who is making a lawful arrest may use reasonable force to make such arrest, or to prevent escape, or to overcome resistance. The officer need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested. Where a peace officer is making a lawful arrest, and the person being arrested has knowledge, or by the exercise of reasonable care should have knowledge, that he is being arrested by a peace officer, and such peace officer is making a lawful arrest, it is the duty of the person to refrain from using force or any weapon to resist such arrest unless unreasonable or excessive force is being used to make the arrest. CALJIC 16.106

After all reasonable means have failed to induce a person to submit to peaceable arrest... and where that person has manifested a belligerent attitude, the arresting officers, as reasonable men, in the circumstances of the situation, are justified in using as much force as appears reasonably necessary to enable them in safety to themselves to compel submission to the law's process. People v. Brite (1937) 9 Cal. 2d 666.

In order to make a lawful arrest without a warrant, the officer must have probable cause to arrest, i.e., he must know facts that would lead a person of ordinary prudence to entertain a strong suspicion that the person arrested is guilty of a crime

for which he is arrested. Cunha v. Superior Court (1970) 2 Cal. 3d 353; People v. Haven (1963) 59 Cal. 2d 713.

Deputies [redacted] and Johnson went to the [redacted] residence to conduct a criminal investigation involving allegations of attempted rape and attempted forcible oral copulation. The investigatory stage quickly evolved into probable cause to arrest once Gizowski began assualting the deputies. Efforts to rationalize and calmly discuss the matter with Gizowski were impossible due to his irrational and agressive behavior. As Gizowski increased his verbal and physical attack on the deputies, they called for assistance. The deputies used virtually every means available to them short of deadly force to restrain Gizowski. Pepper spray and mace were used. Inquiries were made regarding the availability of a dog or an Arwin Rifle. When nothing else appeared to work, Sergeant Wright made the decision to swarm Gizowski and gain control of him with weight and numbers of deputies. Given the circumstances and conditions with which they were dealing, this decision was both reasonable and justifiable.

The amount of force used by the deputies was not unreasonable. Gizowski put up a violent struggle with the deputies before the decision to swarm him was made. The vicious and potentially deadly attack on Sergeant Wright justified the use of greater force than was in fact employed.

Finally, the decision to hobble Gizowski was reasonable. Not only was he a danger to himself, he was a danger to the deputies who were in close proximity to him. Given his violent actions and the fact that they did not appear to abate after he was handcuffed, and given the fact that deputies still had to transport Gizowski to jail, the only reasonable alternative was to hobble him. The evidence is consistent that once restrained, Gizowski was immediately placed on his side and monitored pursuant to departmental policy. When he exhibited difficulty breathing, the hobble was immediately removed and life saving measures were begun.

It is the conclusion of this office that the deputies' actions on January 6, 1994 were neither unlawful nor negligent. In fact, the undersigned commends all of the deputies involved in the arrest of Mr. Gizowski for the professionalism they exhibited in this most dangerous situation.

CAUSE OF DEATH

In addition to the lack of evidence of wrongdoing, there is insufficient evidence to prove what actually caused Mr. Gizowski's death. Deputy Medical Examiner Saralee Funke, M.D. attributed death to methamphetamine intoxication and asphyxia. She could not determine the extent one or the other played in his death, nor could she

testify beyond a reasonable doubt or to a reasonable medical certainty that death was caused by asphyxiation. The lack of petechial hemorrhaging raises a significant doubt as to whether asphyxia was even a cause of death.

What is known is that Gizowski had a toxic amount of methamphetamine in his blood. What is unknown is how this very large amount of methamphetamine, combined with his violent physical conduct, contributed to his death.

CONCLUSION

Having all of the above in mind, this office finds no criminal wrongdoing on the part of any of the deputies involved in the arrest of Daniel Scott Gizowski and will take no further action in this matter.

Very truly yours,

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District Attorney

R. DAN MURPHY
Assistant District Attorney

By James L. Cosper

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Deputy [redacted]
Deputy Michael Papp
Deputy [redacted]